

### **III. REMARKS**

#### **A. Brief Summary of the Pending Claims**

When the Office action was issued, claims 1, 10, and 15-27 were pending in the application. The Office action rejected claims 1, 10, and 15-27 under 35 U.S.C. § 103(a).

The above amendment cancels claims 25-27, and adds new claims 28-34. Thus, after the above amendment is entered claims 1, 10, 15-24, and 28-34 will remain pending in the application.

#### **B. Summary of Telephone Interview With Examiner Schwartz**

Mr. Ririe and Examiner Schwartz discussed this application during a telephone interview on August 2, 2005. The construction of some of the claim terms, as well as the teachings of the Ishii patent were discussed. No resolution or agreement was reached as to the outstanding rejections. Nevertheless, Examiner Schwartz is thanked for the courtesy of the interview.

#### **C. Rejection of Claims 1, 15, and 16 Under 35 U.S.C. § 103(a)**

Claim 1 is an independent claim and claims 15 and 16 depend from claim 1. The Office action rejected claims 1, 15, and 16 under 35 U.S.C. § 103(a) for allegedly being obvious in view of U.S. Patent No. 6,132,012 to Ishii (“the Ishii patent”), U.S. Patent No. 5,221,125 to Okochi et al. (“the Okochi patent”), and U.S. Patent No. 6,679,564 to Nitta et al. (“the Nitta patent”). Applicant respectfully submits that the rejection of these claims was incorrect for the following reasons.

Claim 1 as amended above recites:

a pressure detection device which measures the pressure of the hydraulic braking fluid in the gas accumulator and responsively produces an output signal;

a monitoring device which receives the output signal; and  
wherein the monitoring device uses the output signal to determine the  
~~accumulator~~ pre-charge pressure of the gas in the gas accumulator, compares the ~~accumulator~~  
pre-charge pressure to a pressure limit, and uses the results of the comparison in generating a  
fault signal.

None of the prior art references discussed in the Office action's rejection discloses measuring the pressure of the hydraulic braking *fluid* in a gas accumulator and using that measurement to determine the pre-charge pressure of the *gas* in the gas accumulator. Therefore, applicant submits that the rejection should be withdrawn.

Applicant also hereby incorporates and expressly repeats each of the arguments with respect to the rejection of claim 1 that were included in the reply filed April 19, 2005.

**D. Rejection of Claims 10 and 17-20 Under 35 U.S.C. § 103(a)**

The Office action rejected claims 10 and 17-20 under 35 U.S.C. § 103(a) for allegedly being obvious in view of the Ishii patent, the Nitta patent, and the Okochi patent.

Claim 10 is an independent claim and claims 17-20 depend from claim 10.  
Claim 10 as amended above recites:

measuring the pressure of the hydraulic braking fluid and  
responsively producing an output signal;  
processing the output signal to estimate an accumulator pre-charge  
pressure; and  
comparing the estimate of the accumulator pre-charge pressure with  
an ideal value.

None of the prior art references discussed in the Office action's rejection discloses the above limitations. Therefore, applicant submits that the rejection should be withdrawn.

Applicant also hereby incorporates and expressly repeats each of the arguments with respect to the rejection of claim 10 that were included in the reply filed April 19, 2005.

**E. Rejection of Claims 21-24 Under 35 U.S.C. § 103(a)**

The Office action rejected claims 21-24 under 35 U.S.C. § 103(a) for allegedly being obvious in view of the Ishii patent, the Nitta patent, and the Okochi patent. Applicant respectfully submits that the rejection of these claims was incorrect for the following reasons.

Claim 21 is an independent claim and claims 22-24 and new claims 28-29 depend from claim 21. Claim 21 as amended above recites:

... the accumulator comprising at least a first chamber for hydraulic fluid which has a first minimum volume when the hydraulic fluid is less than a first pressure, and which expands to a volume greater than the first minimum volume when only after the hydraulic fluid is greater than the first pressure;

...  
a monitoring device which receives the output signal of the pressure detection device, wherein the monitoring device identifies an estimate of the first pressure ~~of the hydraulic fluid~~, and uses the estimate of the first pressure in determining whether to produce a fault signal.

Claim 21 recites a “first pressure” and defines this limitation in the claim itself. According to the claim, the “first pressure” is the pressure at which the first chamber in an accumulator expands to a volume greater than its initial minimum volume. In a gas type accumulator, this “first pressure” would be the same as or dependent upon the pre-charge gas pressure. Claim 21 also recites that a monitoring device receives the pressure of the hydraulic fluid in the first chamber and uses that pressure signal to identify an estimate of the “first pressure.”

None of the prior art references used in the Office action's rejection discloses or suggests these limitations in claim 21. For at least this reason, the rejection of claim 21 was incorrect and should be withdrawn.

Applicant also hereby incorporates and expressly repeats each of the arguments with respect to the rejection of claim 21 that were included in the reply filed April 19, 2005.

**F. New Claims 30-34**

New claim 30 is an independent claim and claims 31-34 depend from claim 30. Claim 30 is allowable over the prior art of record.

**G. Conclusion**

The Office action set a shortened statutory three month reply period expiring on October 7, 2005. This reply is being submitted before the expiration of this period. Any fees necessary for entry of this reply and amendment, or any other fees necessary at any time during the prosecution of this application should be charged to the undersigned's deposit account no. 03-1129.

If any issues remain to be resolved in the application, the examiner is encouraged to telephone the undersigned representative.

Respectfully submitted,



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